

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

WILLIAM EUGENE WEBB,

Plaintiff,

v.

**Civil Action No. 3:07CV62
(Judge Bailey)**

**JOE DRIVER, MR. MARTINEZ,
MR. ORSOLITS, MR. GREENWALL,
and MS. DEBRA BRADLEY,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull [Doc. No. 7], dated November 8, 2007, and the plaintiff's Objections [Doc. No. 10] thereto filed on November 23, 2007. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made.

The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation should be and hereby is **ORDERED ADOPTED**.

Plaintiff objects to the magistrate judge's finding that the plaintiff's complaint should be dismissed for failing to state a claim. The plaintiff counters by arguing that he indeed did provide sufficient assertions to support his claim. Upon review, it is the opinion of this Court that the defendants have not failed to provide the plaintiff with adequate medical care. Plaintiff's Exhibit A to his original complaint shows that he was examined by the medical staff along with his medical history. The staff found that plaintiff's hernia does not warrant surgery, there were negative findings on his forearm and wrist, and plaintiff was

issued a soft shoe permit to have shoes mailed to the institution by family members [Doc. No. 1, Ex. A]. Therefore, this Court finds that the plaintiff has not supported his contention that the defendants ignored his serious medical conditions.

Furthermore, this Court finds that plaintiff's assertions regarding Hazelton's Food Services to be without merit. The warden and the Administrator for National Inmate Appeals found that the Food Service Department is complying with the Food Service Manual. Plaintiff has not shown any fact which might support his claim that the meals are inadequate.

Finally, this Court concurs with the magistrate's finding that there is no factual basis supporting plaintiff's claim that the law library does not maintain appropriate hours. Investigations into Hazelton's law library hours found that the library was available several hours per week. Furthermore, inmates may submit a request to be relieved from work detail when facing an imminent court deadline. See Doc. No. 1, Ex. C.

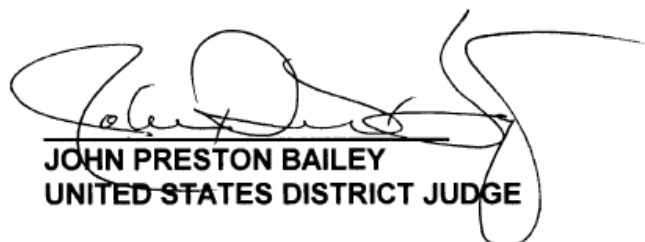
For the foregoing reasons and for the reasons stated in Magistrate Judge Kaull's Report and Recommendation [Doc. No. 7], the Court **ORDERS** that:

1. the plaintiff's complaint [Doc. No. 1] **DISMISSED WITH PREJUDICE**;
2. the Motion to Amend Complaint [Doc. No. 9] is **DENIED AS MOOT**.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the plaintiff and all counsel of record.

DATED: March 14, 2008.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE